



IN THE MATTER OF:

Complainant,

and

Respondents.

CHARGE NO: 2003SF0954  
EEOC NO: 21BA30041  
ALS NO: S-12172

This matter is ready for a Recommended Order and Decision pursuant to the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.). On October 1, 2004, an Order was entered which reflected the parties' representation that they had settled the matter and directed the parties to discuss whether this case should be dismissed based on the Commission's decision in **Watkins and State of Illinois, Department of Corrections**, \_\_\_ Ill. HRC Rep. \_\_\_ (1990CF1303, June 2, 1999). Both parties have filed responses addressing the applicability of the holding in **Watkins** to this case.

On March 23, 2004, Respondents made Complainant an offer of \$10,000 to settle the instant Complaint alleging two counts of sexual harassment and one count of retaliation. On March 24, 2004, Complainant accepted Respondents' offer and requested that the settlement amount be paid within 45 days of settlement. On April 21, 2004, Complainant's counsel sent Respondents' counsel a stipulation for voluntary dismissal of the instant case. However, Respondents did not sign the stipulation and have not paid Complainant any settlement proceeds.

### **Findings of Fact**

Based on the record in this matter, I make the following findings of fact:

1. On September 5, 2002, Complainant filed a Charge of Discrimination against Respondents, alleging that she was the victim of sexual harassment.
2. On August 29, 2003, the Department of Human Rights filed a Complaint on behalf of Complainant, alleging that Complainant was the victim of sexual harassment and retaliation.
3. On February 20, 2004, an Order was entered which granted Respondents' unopposed motion for an extension of time to file a verified pleading for the purpose of exploring settlement.
4. On March 17, 2004, Respondents received an additional unopposed extension of time to explore settlement.
5. On April 1, 2004, Respondents received a third extension of time to April 15, 2004 to file a responsive pleading. In the Order, Respondents were informed that their request was being granted with the understanding that it would be the final extension of time for filing a responsive pleading.
6. On April 14, 2004, Respondents filed another unopposed motion for extension of time in which to file a responsive pleading. In the motion, counsel for Respondents indicated that the parties had settled the case and needed additional time to reduce the settlement to writing. The motion was granted on April 20, 2004.
7. On September 3, 2004, an Order was entered directing the parties to either submit a proposed settlement agreement or voluntary motion to dismiss by September 28, 2004, or file a status report on that date explaining why neither document had been filed by that date.
8. On September 15, 2004, Complainant filed a status report indicating that Complainant had accepted a \$10,000 offer from Respondents to settle the case, that

Respondents had not forwarded signed settlement documents or settlement proceeds, and that Respondents' counsel indicated in a July 9, 2004 letter that Respondents were willing to make a \$3,000 partial payment on the settlement.

9. On September 27, 2004, counsel for Respondents filed a motion to withdraw from the case. In the motion, counsel indicated that a breakdown in communications had occurred between counsel and Respondents.

10. On October 1, 2004, Respondents were ordered to file a response to Complainant's assertion that a settlement agreement had been reached with the parties. Complainant and Respondents were also ordered to file a response discussing the applicability of the Commission's decision in **Watkins and State of Illinois, Department of Corrections**, \_\_\_ Ill. HRC Rep. \_\_\_ (1990CF1303, June 2, 1999) where the Commission determined that a case must be dismissed once there has been a finding that the parties entered into an oral contract to settle a Human Rights Act case. Respondents were individually served with a copy of this Order.

11. On October 26, 2004, Respondents were directed to file a response to the pending motion by their counsel to withdraw as their legal representative. Respondents were also directed to file a response to Complainant's contention that the parties entered into an oral settlement agreement. Respondents did not file a response to this Order.

12. On November 5, 2004, counsel for Respondents filed a response which did not contest Complainant's assertion that an oral agreement was entered into by the parties. Moreover, Respondents' counsel agreed that the Commission's ruling in **Watkins** required that this case be dismissed, and that Complainant seek enforcement of the settlement agreement in civil court.

13. Based on the representations of the parties, I find that the parties settled this case.

14. On November 24, 2004, Complainant's counsel filed a response indicating that the Commission's ruling in Watkins requires dismissal of the instant action and enforcement of any settlement in civil court. Counsel also asked that the Commission reverse the holding in Watkins.

#### **Conclusion of Law**

1. The Commission has jurisdiction over the parties and the subject matter of this action.

2. If an employee and employer enter into a valid agreement, an employee may waive his or her right to bring a discrimination claim in return for money.

3. An oral agreement covering a discrimination claim is enforceable where there is a clear offer and acceptance, as well as a meeting of the minds as to terms of the agreement.

4. The Commission lacks jurisdiction to enforce settlement agreements entered into by parties, but may dismiss a case based upon the existence of a settlement agreement.

#### **Determination**

This matter should be dismissed with prejudice since the record establishes that the parties reached a settlement whereby Complainant agreed to dismiss her Human Rights Act claim in exchange for a monetary sum.

#### **Discussion**

In Watkins and State of Illinois Department of Corrections, \_\_\_ Ill. HRC rep. \_\_\_ (1990CF1303, June 2, 1999), the Commission considered an issue as to whether it could enforce the terms of an oral settlement agreement that included a payment of \$40,000 from the respondent to the complaint. After rejecting complainant's contention that the parties had not made a viable settlement agreement, the Commission concluded that it did not have jurisdiction to enforce the agreement and dismissed the case after

noting that the parties had agreed to drop the case in exchange for adequate consideration. (**Watkins**, slip op. at p. 7.) Significantly, the Commission did not set any precondition regarding the actual payment of the settlement figure prior to the dismissal of the case.

In this case, counsel for both parties agree that a settlement agreement had been reached whereby Complainant was to drop her Human Rights Act case in exchange for the payment of \$10,000, and Respondents have not filed a response contesting this assertion. Moreover, Complainant has not argued that the \$10,000 figure does not constitute “adequate” consideration, and more significantly, counsel for both Complainant and Respondents agree that this case must be dismissed pursuant to the dictates of **Watkins**. Additionally, while conceding that **Watkins** requires the dismissal of her action, Complainant contends that **Watkins** was wrongly decided and urges the Commission to reverse the decision. However, because my role is only to apply Commission precedent, I will leave it up to the Commission to determine whether **Watkins** requires a second look. For now, it is sufficient to note that Complainant’s only remedy to enforce her oral settlement agreement is an action in civil court.

#### **Recommendation**

For all of the above reasons, I recommend that the Complaint and the underlying Charge of Discrimination of Heather Beach be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_  
MICHAEL R. ROBINSON  
Administrative Law Judge  
Administrative Law Section

ENTERED THE 14TH DAY OF MARCH, 2005